

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

EDDIE LEON, JR.,

Plaintiff,

No.

vs.

LAWRENCE STABLES and  
BRI COR TRANSPORTATION, LLC,

Defendants.

**NOTICE OF REMOVAL**

Defendants Lawrence Stables and Bri-Cor Transportation, LLC, by their attorneys, the Eaton Law Office, P.C. (by P. Scott Eaton), hereby give notice of the removal of the above-captioned matter from the Second Judicial District Court, Bernalillo County, State of New Mexico, to the United States District Court for the District of New Mexico, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446. In support thereof, Defendants set forth the following:

1. Plaintiff filed his original Complaint (“Complaint”) on September 28, 2018, in the Second Judicial District Court, Bernalillo County, State of New Mexico, as civil cause number D-202-CV-2018-07200. A copy of the original Complaint is attached hereto as **Exhibit A**.
2. The Complaint was served on Defendant Lawrence Stables at his residence in Missouri on November 26, 2018.
3. The Complaint was served on Defendant Bri-Cor Transportation, LLC on November 27, 2018.
4. This Notice of Removal is filed in this Court within 30 days of Defendants Lawrence Stables’ and Bri-Cor Transportation, LLC’s initial receipt of service of pleadings in the case. *See* 28 U.S.C. §1446(b). The state court in which this action was commenced is within

this Court's district. Therefore, this action would be properly removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446. *See Murphy Bros., Inc., v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354-56 (1999).

5. Plaintiff's Complaint arises out of a collision between a motorcycle driven by Plaintiff and a tractor-trailer rig driven by Defendant Stables in Albuquerque, Bernalillo County, State of New Mexico. Plaintiff alleges that he suffered serious bodily injuries, pain and suffering, lost wages, interference with his daily life, impairment of his physical abilities, loss of enjoyment of life, and loss of personal property. Plaintiff alleges he has incurred and will continue to incur significant medical expenses and various other damages. *See Ex. A*, ¶¶ 10-14.

7. Plaintiff's counsel made a settlement demand that identified \$670,797.02 in medical bills related to injuries sustained by Plaintiff and which alleged permanent injuries and impairments. The severity and treatment of the personal injuries alleged in the Complaint and the information in Plaintiff's counsel's settlement demand, including Plaintiff's settlement offer, demonstrate that the Plaintiff is seeking more than \$75,000.00 in damages, satisfying the amount in controversy requirement of 28 U.S.C. § 1332(a).

8. Plaintiff alleges that he is a resident of Bernalillo County, New Mexico. *See Ex. A*, ¶ 1. On information and belief, Plaintiff is also a citizen of Bernalillo County, New Mexico.

9. Defendant Bri-Cor Transportation, LLC is a Florida limited liability company with its principal place of business in High Springs, Florida. Defendant Bri-Cor Transportation, LLC is therefore a citizen of a state other than New Mexico for the purposes of diversity jurisdiction pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

10. Defendant Lawrence Stables is a resident and citizen of Missouri and is therefore a citizen of a state other than New Mexico for purposes of diversity jurisdiction pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

11. An action initially brought in a state court may be removed to a federal district court pursuant to the authority set forth in 28 U.S.C. § 1441, which states that:

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending. For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.

28 U.S.C. ¶ 1441(a).

13. There is complete diversity of citizenship between Plaintiff and Defendants, and the amount in controversy is greater than \$75,000, thus warranting jurisdiction in this Court. Defendant may remove an action on the basis of diversity of citizenship if there is complete diversity between all named plaintiffs and all named defendants, and no defendant is a citizen of the forum state. *Lincoln Property Co. v. Roche*, 546 U.S. 81, 126 S.Ct. 606 (2005).

17. Upon inquiry by Defendants' counsel, no further proceedings have occurred or are scheduled in the state court in this matter.

18. In accordance with 28 U.S.C. § 1446(d), copies of this Notice of Removal are being served on counsel for Plaintiff and are being filed with the Clerk of the Second Judicial District Court for the State of New Mexico.

EATON LAW OFFICE, P.C.

By /s/ P. Scott Eaton

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**CERTIFICATE OF SERVICE**

I hereby certify that I caused a copy of the foregoing pleading to be electronically filed via the Court's CM/ECF system and served via email to all counsel of record listed below this 20<sup>th</sup> day of December 2018.

*Attorneys for Plaintiff*

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/s/ P. Scott Eaton

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